IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 16TH JULY 2007 / 25TH ASHADHA 1929

Crl.MC.No. 1147 of 2007()

AGAINST THE ORDER IN CMP 572 2006 IN MC.129/2001 of FAMILY COURT, KOLLAM

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PETITIONER: PETITIONER.

PRAJATHA, D/O. THANKAMMA,
RESIDING AT KADAYIL VEEDU, KATTILKADAVU P.O.,
ADHINADU VILLAGE, KARUNAGAPPALLY, KOLLAM.

BY ADV. SRI.T.MADHU

RESPONDENTS: STATE AND RESPONDENT.

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1. THE DIRECTOR GENERAL OF POLICE, KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. SIVAPRAKASH,
S/O. KUTTAPPAN, RESIDING AT VILAYIL THEKKATHIL
VEEDU, THAZHAVA P.O., KUNNATHOOR MURI,
THAZHAVA VILLAGE, KARUNAGAPPALLY, KOLLAM.

R1 BY PUBLIC PROSECUTOR SRI.M.S. BREEZ

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 16/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

O R D E R

THE LEARNED PROSECUTOR ON INSTRUCTIONS SUBMITS THAT THE WARRANT OF ARREST HAS ALREADY BEEN EXECUTED. THE ENTIRE AMOUNT HAS ALREADY BEEN PAID AND THE RESPONDENT HAS BEEN DISCHARGED BY THE FAMILY COURT. THE SUBMISSION OF THE PROSECUTOR IS ACCEPTED.

THIS CRL.M.C. IS DISMISSED AS UNNECESSARY NOW.

16.7.2007 SD/- R. BASANT, JUDGE

/TRUE COPY/

P.A. TO JUDGE

R. BASANT, J.

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Crl.M.C.No. 1147 of 2007

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Dated this the 24th day of May, 2007

O R D E R

The learned Prosecutor, on instructions, submits that the warrant issued by the Family Court remains unexecuted even now. The learned Prosecutor submits that the Dy.S.P. Karunagappally is monitoring the attempt to arrest the warrantee i.e. the 2nd respondent herein. It is submitted that he has monitored the attempt to execute the warrant, but in spite of best efforts of the official, the 2nd respondent has not been arrested.

2. I am satisfied that there must be a specific direction to the officer concerned, i.e. Dy.S.P., Karunagapally to execute the warrant within a stipulated period of time and report compliance to this Court. The plight of the destituted women, who are unable to get the relief ordered under Section 125 Cr.P.C. does deserve sympathetic consideration. The system has to make every endeavour to ensure that such relief granted to the claimants is executed and is effectively made available to them. Maintenance at the rate of Rs.350/- per

month has been ordered and the petitioner has been compelled to wait from 2001 without any tangible relief.

3. In these circumstances there shall be a direction that the Dy.S.P. Karunagapally shall ensure apprehension of 2nd respondent by the next date of posting. He shall apply to the Family Court and the Family Court shall issue fresh warrant, if necessary, to ensure apprehension of the 2nd respondent. Efforts taken shall be reported to this Court on 16.7.2007. If warrant is not executed by that date, the official concerned, i.e. Dy.S.P., Karunagapally shall appear in person and report to the court the circumstances under which the warrant could not be executed.

4. Hand over copy to the learned Prosecutor.

(R. BASANT)
Judge

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R. BASANT, J.

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Crl.M.C.No. 1147 of 2007

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Dated this the 10th day of April, 2007

O R D E R

The petitioner has succeeded in obtaining an order of maintenance under Section 125 C5r.P.C. She had later filed application for execution of the said order of maintenance. The police did not show enthusiasm in executing the warrants issued by the learned Judge and this obliged the petitioner to come to this Court. Accordingly Annex.A2 order was passed by this Court. The respondent was arrested and he has paid the entire amount due. But a subsequent application claiming maintenance for the period from 26.10.05 to 16.10.06 is pending. Warrant has been ordered to be issued by the Family Court. The respondent has not appeared before the learned Judge. The warrant is not being executed. In these circumstances the petitioner prays that the police may be directed to execute the warrant as they did on the earlier occasion when Annex.A2 order was issued by this Court.

2. Notice given and the learned P.P. appears for the respondent. The

learned P.P. shall take instructions. I need only observe that I expects that the warrant issued by the Family Court for execution of the order of maintenance (CMP 572/06 in M.C. 129/01 of Family Court, Kollam) must be executed by the police as expeditiously as possible and compliance reported to this Court on the next date of posting. Call on 24.5.2007.

(R. BASANT)
Judge

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